

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, September 17, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Steve Duvall, Gerry Krieser, Roger Larson, Dan Marvin, Cecil Steward, Mary Bills-Strand and Tommy Taylor; Marvin Krout, Ray Hill, Brian Will, Becky Horner, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Cecil Steward called the meeting to order and requested a motion approving the minutes for the regular meeting held September 3, 2003. Commissioner Carlson requested an amendment to page 11 concerning the Witherbee Neighborhood Association downzone, Change of Zone No. 3416. Motion for approval, as amended, made by Bills-Strand, seconded by Krieser and carried 7-0: Carlson, Duvall, Krieser, Marvin, Steward, Bills-Strand and Taylor voting 'yes'; Larson abstaining.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

September 17, 2003

Members present: Carlson, Duvall, Krieser, Larson, Marvin, Steward, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 572F, SPECIAL PERMIT NO. 643E, SPECIAL PERMIT NO. 1939B, COUNTY MISCELLANEOUS NO. 03011, COMPREHENSIVE PLAN CONFORMANCE NO. 03009, STREET AND ALLEY VACATION NO. 03009 and WAIVER NO. 03011.**

Item No. 1.3, Special Permit No. 1939B, and Item No. 1.7, Waiver No. 03011, were removed from the Consent Agenda and scheduled for separate public hearing.

Bills-Strand moved to approve the remaining Consent Agenda, seconded by Krieser and carried 8-0: Carlson, Duvall, Krieser, Larson, Marvin, Steward, Bills-Strand and Taylor voting 'yes'.

Note: This is final action on Comprehensive Plan Conformance No. 03009 and Waiver No. 03011, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1939B,
TO ADD MEDICAL OFFICE FLOOR AREA
AND TO AMEND THE PARKING LOT LAYOUT,
ON PROPERTY GENERALLY LOCATED
AT 7500 S. 91ST STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Taylor, Marvin and Steward.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda for separate public hearing.

Ex Parte Communication: None.

Proponents

1. Mark Hunzeker appeared on behalf of the **Nebraska Heart Hospital** and advised the Commission that the applicant is requesting a height waiver which needs to be advertised. Therefore, Hunzeker requested a two-week deferral.

Larson moved to defer two-weeks, with continued public hearing and administrative action on October 1, 2003, seconded by Larson and carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

Opposition

1. Tim Phillips, affiliated with the law firm of Morrow, Poppe, Otte, Watermeier and Phillips, testified on behalf of Eiger Corp. and Andermatt in opposition to this amendment to the special permit. Phillips requested that the Planning Commission not take any action approving this special permit amendment unless and until the Planning Commission is furnished with written documentation duly executed by Andermatt and Eiger evidencing a reallocation of the P.M. peak hour trips to the site that is covered by this special permit. Phillips submitted a letter written by W. Michael Morrow outlining the position of the developers. Basically, this amendment to the special permit is requesting an increase in square footage of medical office space that was previously approved, which will result in an increase of allocation of P.M. peak hour trips through this area. Andermatt and Eiger have spent a lot of money developing the infrastructure and streets in this area and the increased

square footage of medical office floor area is going to greatly affect the allocation of the remaining peak hour trips that can be allocated to those areas that have not yet been developed. There had been no agreement reached between the developer and the Heart Hospital regarding the allocation of additional peak trips for their particular development.

Phillips noted that the Planning Department is recommending that that agreement be reached before the matter is passed on to the City Council; however, at this point in time, there has been no agreement reached. The P.M. trips were set forth in the original special permit to develop this particular area. There was an allocation of 5,283 P.M. peak hour trips--4,044 were allocated to the northern part of the development north of Hwy 2, and 1,239 were allocated to the commercial area to be developed to the south of Hwy 2. Increasing the square footage of the medical office building (basically doubling it) will greatly affect the allocation of those remaining P.M. traffic trips for the other areas that remain to be developed. The Planning Department has indicated in their report that the applicant must demonstrate that there is an agreement between the parties that will allow additional trips to be allocated to the hospital (Condition #1.2).

Carlson noted that Condition #1.2 is required before the application is scheduled on the City Council agenda. Phillips requested that the Planning Commission not take action until that agreement is reached.

Brian Will of Planning staff advised the Commission that today's staff report will be revised prior to the next meeting to consider the additional waiver request. In addition, he believes that Condition #1.2 to which Mr. Phillips refers will be deleted as a requirement in that revised staff report because overall, the development within this area is well below the trip cap. The staff intends to add a condition that the applicant give notice to the developers; however, the staff no longer believes it is fair to require an agreement as a condition of the special permit.

This application will be scheduled for continued public hearing and administrative action on the October 1, 2003.

**WAIVER NO. 03011,
TO WAIVE THE MINIMUM LOT DEPTH,
ON PROPERTY GENERALLY LOCATED
AT NORTH 1ST STREET AND FAIRFIELD STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Taylor, Marvin and Steward.

Staff recommendation: Approval.

This application was removed from the Consent Agenda for separate public hearing at the request of Roland Hancock.

Ex Parte Communication: None.

Proponents

1. **J.D. Burt** of **Design Associates** appeared on behalf of **Boyce Construction**, the contract purchaser of the property. Burt stated that he just had a conversation in the hallway with Mr. Hancock, who asked that this application be removed from the Consent Agenda. Mr. Hancock has some drainage issues that exist along his west property line (which is the east property line of Burt's client). Burt is not sure of the extent of the drainage, but he assured the Commission that as part of a grading plan, the applicant will have something agreeable to the neighbor to the east.

Opposition

1. **Roland Hancock**, 3609 N. 2nd Street, stated that he is not in opposition to the sale or their plans. His biggest concern is the water runoff which is already a problem with that property. The predominance of the water from the grading and cement driveways will drain toward his property, and he is fearful that his property will not handle that. The existing owner has the property all in sod and it soaks up the rain. It is now Mr. Hancock's understanding that the contractor will work with him on this problem.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 17, 2003

Taylor moved approval, seconded by Krieser and carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 3418
FROM R-2 RESIDENTIAL TO H-2 HIGHWAY BUSINESS
ON PROPERTY GENERALLY LOCATED
½ BLOCK EAST OF NORTH 48TH STREET AND ORCHARD STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. **Gary Butts**, project manager for Kent and Rosemary Franks, the property owners, presented the application. This is basically a simple request to enable the owners to possibly put a small storage building on a piece of their property. They own the entire block in the application area. It would be a very small building – not a big complex like you see several blocks away – and would not intrude into the area. It would look like a little house. It would serve the needs of the apartment dwellers in that area, and the residents of the mobile home court right next door would be interested in using the mini-storage buildings.

Butts submitted 15 letters in support of this change of zone request from the adjacent businesses and property owners. There is only one property owner which the applicant has been unable to contact because they are out-of-state; however, Butts believes they will be giving a letter in support, which will then equate to 100% support from the adjacent businesses and property owners. There is no objection to this mini-storage facility.

The area of the zone change pretty much involves one entire lot owned by the Franks, which currently has an asphalt parking lot being used by Husker Auto which sells used cars. Those cars, along with the cars that go to the car wash next door, use this paved area and have for 10-15 years. There is also a building that is dissected by the present zoning line, which was the home of the Wild Bird Habitat Store for many years. This zoning change would bring that building into the proper business zoning.

With regard to screening, Butts advised that it will be landscaped/screened better than it is now. As far as the property not being under common ownership, one of the pieces is owned by a limited liability company which is owned by the family, so the lot is entirely owned and controlled by the Franks family.

The zoning line proposed follows the centerline of the street. The staff report map is showing additional jogs in the zoning line that is not being proposed. Butts submitted that today there is R-2 zoning protruding into H-2 zoning. The result of this change of zone will be a little bit of H-2 protruding into R-2, but it will be less protrusion than the R-2 protruding into the H-2 that exists now.

There was no testimony in opposition.

Staff questions

Carlson noted there to be no mention of a specific use in the staff report. What about the proposed mini-warehouse use? Is this use available only in highway commercial zoning? Becky Horner of Planning staff referred to Analysis #2 in the staff report which sets forth the specific uses allowed in the H-2 district. The H-2 district talks about services oriented to major arterials, so H-2 is a little different than the other highway commercial districts. The staff generally does not evaluate requests for zoning change based on the proposed use. Thus, the staff analysis and recommendation would not change based on the use being proposed. The issue is compatibility.

Steward wondered whether the property in the east part of that block between Dudley and Orchard is active residential use. Horner stated that, from what we can tell, they are residential properties. The ownership map has been distributed. Part of the staff concern is the ownership pattern of this lot and future pressure for requests for change of zone on the properties to the east. Steward pointed out that we do have the pattern of residential zoning north and south in portions of the adjacent block. Horner concurred.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 17, 2003

Carlson moved to deny, seconded by Marvin.

Carlson believes it relates to the edge conditions and compatibility. The Comprehensive Plan is specific about trying to preserve "like uses to like uses on facing areas". He interprets that H-2 is intended to be oriented to arterials and it is difficult when you begin to eat back into the neighborhood behind it. To the north it looks like they have accomplished R-5 as the transition and maybe that is the way to go.

Motion to deny carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

SPECIAL PERMIT NO. 1423H,
AN AMENDMENT TO THE HIMARK ESTATES
COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S. 84TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter in opposition from the neighbor just to the north of this proposed amendment.

Proponents

1. Mark Palmer of Olsson Associates, appeared with **Joe Hampton**, who represents the owner, **Jackie Snyder**. The Snyders have owned a large portion of the property in this vicinity. They reserved a 5.6 acre tract planned for the Snyder homestead and Jackie Snyder has now decided to proceed with development of 26 units of higher-end townhomes similar to other townhomes within the HiMark development.

The applicant agrees with the conditions of approval, except for Conditions #1.8 and #1.11. The applicant has submitted a revised concept in response to the conditions of approval. The staff is concerned about the location of what was a cul-de-sac turnaround on the west end of the property. Planning had requested that it be pulled back, and by pulling it back the developer has assigned some additional parking for the area. Another issue that has been resolved with staff is the location of Sandhills Court, which will be moved to the north to resolve the intersection separation issue.

With regard to Condition #1.8, which requires the dedication of an additional 10' of right-of-way along the north side of Old Cheney Road, Palmer advised that when this property was first developed, 17' was dedicated to make a 50' right-of-way on the north side of Old Cheney. The developer had proposed granting a 10' easement for landscaping and pedestrian access. Public Works is insisting on the additional 10' of right-of-way but the developer would rather grant the easement. There are existing pine trees that may be required to be removed if the road gets shifted to the north.

With regard to Condition #1.11, which deals with the double frontage issue, Palmer advised that they have attempted to work around this issue bringing Snyder Court off of Sawgrass

Road or 90th Street. 90th Street has become a good situation for the intersection and when you bring that road in, Palmer submitted that Lots 1, 2, 3 and 4 do not technically have a double frontage. This area has not been platted or constructed so anyone that is building or purchasing a home would know of this situation before they purchase or build. Palmer suggested that this is a common occurrence in the city where there are odd pieces of property where there is no other way of getting a road through, yet maintaining some density to the property.

In summary, Palmer stated that the developer is showing additional parking to alleviate any parking concerns that the townhome development may create; and they have worked with developer to the east to create the Snyder Court/Sandhills Court with a better intersection.

Carlson referred to the double frontage issue and inquired whether they will be presenting the face of the building to Sawgrass. Palmer indicated that they will be doing a landscape screen along that outlot. A fence is an option, but they were preferring to do landscape screening along that outlot.

Opposition

1. **Tim O'Neill** of the law firm of Harding, Shultz & Downs, appeared on behalf of the **Vintage Heights Homeowners Association**, which is directly south of this proposal. These homeowners are not necessarily opposed to the concept of this proposal, but are concerned about the right-of-way for the widening of Old Cheney. The concern is that the 20' does not come off the south side. If we are going to make the right-of-way 120' as opposed to 100', we need to split the difference. Another concern has to do with the dip to the south in Old Cheney Road as you drive east of 84th. O'Neill understands that Old Cheney will be straightened when it is widened to four lanes. The Vintage Heights homeowners want to make sure enough property is taken to the north to facilitate the taking for that road improvement. They want to make sure that enough land is taken now for the future straightening of Old Cheney Road, and that it is taken equally from both sides.

Another issue of concern to the Vintage Heights homeowners is the cul-de-sac. While it has been moved, and while the lights won't shine into the neighbors to the east, they will certainly shine into the neighbors in Vintage Heights. The cul-de-sac is inconsistent with the development and design of the surrounding area. O'Neill wants to make sure that Vintage Heights does not get cheated on this deal.

Staff questions

Steward confirmed that staff is aware of the changes that the applicant discussed. Czaplewski acknowledged that the staff and the applicant met briefly today to discuss the changes. Regarding the cul-de-sac, it would be the staff position that the solution that they have proposed does not entirely address the problem because there is still a dead-end driveway at the rear of the other lots. Staff would prefer something that moves the cul-de-sac and then wrap the cul-de-sac with lots.

The staff is also opposed to the deletion of Condition #1.11 regarding the double frontage issue. The appearance of a double frontage lot is there. The “sliver” lot circumvents the subdivision ordinance. The staff would rather see the road reconfigured to make the situation work better instead of giving up on the subdivision requirements.

Carlson inquired as to the 120' of right-of-way and the difference between an easement and dedication. Roger Figard of Public Works stated that, philosophically, during the last Comprehensive Plan amendment and as we have continued to try to build infrastructure on the edge of town, we are consistently hearing that we need to get out there and get the right-of-way and stay out of the back yards. With that in mind, Public Works is evaluating each new application in this regard. In this case, Public Works has evaluated whether we are creating any undue hardship and, in this case, we do not believe we have created an undue hardship in asking for the dedication. The 10' can come off of the outlot. In the future, there is then a clear expectation of the location of the right-of-way line. There is a much clearer expectation between the right-of-way and the easement. The applicant was explaining the willingness to dedicate that easement for landscaping or sidewalk and quite often there is the expectation that there will never be any roadway infrastructure there. The dedication sets it up for the future where we can use it if we need it. He believes this condition is consistent with the future. More separation does not create an undue hardship.

Steward suggested that the 10' presumes an equity – if 10' is coming from the north, there would also be 10' coming from the south at some point. However, Figard pointed out that Vintage Heights is there with some homes on the south side, and as we come up to 88th Street and go on to the east, we are looking at 56' of right-of-way on the south side. The comment that we not push into Vintage Heights is another reason why we should take the 10' on the north side now so that we do not push into the back yards of Vintage Heights as we go east from 90th Street. Figard does not envision that there is any intent to swing Old Cheney over to Vintage Heights or further into the applicant's property on the north.

Bills-Strand inquired as to the width of 70th Street at Old Cheney. Figard stated that ultimately, the pavement width and lanes at 70th & Old Cheney and 84th & Old Cheney would be similar – two through lanes and ability for dual lefts and right turn lane. He was not sure on the right-of-way width.

Response by the Applicant

With regard to the Vintage Heights concerns, Palmer noted that there is an existing mature tree line along Old Cheney Road. The portion on the south side of the cul-de-sac would not have the trees removed so there would be a tree screen for any light pollution. We are at least 140' north of the Old Cheney Road right-of-way. We would want to maintain the existing tree line along Old Cheney Road as much as possible.

With regard to the cul-de-sac issue, Palmer stated that the developer was in hopes of satisfying the Planning Department and they did meet with Public Works regarding the access driveway, reducing it to 20'. They could turn Lots 13 and 14 to access the cul-de-sac and have them back onto the existing residential lots, but it just didn't seem to look as good aesthetically.

With regard to the double frontage lots, Palmer pointed out that it is a situation that occurs all over town. They are trying to keep the density. Any road coming off of Sawgrass Drive creates an issue in this corner for getting access.

Carlson assumes that the ownership to the west prevents this developer from taking the street straight through to 88th. Palmer concurred. The developer to the east is losing a lot to bring Sandhills Court up to match these roads.

With regard to the double frontage issue, Steward inquired whether the applicant has a plan or any commitment to screen that area along Sawgrass. Palmer stated that they definitely will. They will show additional screening on the revised plans. Steward inquired as to how they propose resolving the aesthetics as well as the light pollution. **Joe Hampton** responded, stating that he has no financial interest in the property but has agreed to help Mrs. Snyder finish the development. He referred to Cape Charles Court out in Williamsburg – a very desirable townhouse complex, and it backs up to an adjoining street with significant pine trees. You could do a fence, but if you look at Cape Charles you will see that good landscaping is probably more acceptable. Hampton went on to state that the Snyders have lived on this property for 30 years and they have some very extensive landscaping along Old Cheney Road. It would be a crime to wipe that out, and that is what would happen by taking another 10' of right-of-way.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 17, 2003

Bills-Stand moved to approve the staff recommendation of conditional approval, changing Condition #1.11 such that the applicant will provide a landscape plan to show screening, seconded by Larson.

Bills-Strand commented that she understands the 100' and 120' and would assume that the city will leave the trees there for as long as possible. She also vividly remembers Normal Blvd. when they went in to widen that and everyone tied ribbons around the trees. If potential property owners know it now before they buy the property, and if we can leave the trees as long as possible, she thinks that is the best way to go.

Motion for conditional approval, with amendment to Condition #1.11, carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

ANNEXATION NO. 97007

TO ANNEX PROPERTY GENERALLY LOCATED

AT S. FOLSOM STREET AND W. VAN DORN STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Proponents

1. Brian Will of Planning staff requested a two-week deferral to modify the legal description to delete two public-owned parcels which involve some abandoned right-of-way and a parcel adjacent to and south of the Southwest Rural Fire Station. The reason for the request to delete these two parcels is largely jurisdictional. We have a public road serving properties. If the property is annexed, we then have a potential jurisdictional conflict between the city and county services.

Will then overviewed the annexation request, which is largely due to circumstances that have come together involving: 1) the State of Nebraska Regional Center has requested city water service; and 2) the existence of a city sewer line out in this area that currently serves the neighborhood. The Regional Center has been notified of violation of federal water regulations and is faced with the decision to either upgrade their water system or connect to the city system. The Regional Center has chosen to connect to the City of Lincoln Water System. The City policy is not to extend utilities beyond the corporate limits, meaning the Regional Center would need to be annexed. Staff then considered the municipal sewer line which exists in that area, so the question then becomes the boundary for the annexation. Will then displayed a map of the existing utilities in the area. When staff was faced with looking at annexation of the Regional Center, it was then a fairly straight forward issue in establishing the boundaries. The boundary shown on the map includes only those properties that can be or are served by city sewer and water. That explains the reason the boundary is irregular in places; that is, those

properties that either are connected to the sewer line or can be served with city sewer are included and those that cannot are excluded from the annexation.

Will advised that a public meeting was held with the neighborhood at the fire station and the question was raised about city fire and police service. Since that time, the Planning staff contacted the Lincoln Fire Department and Lincoln Police Department and they have confirmed that they will be providing service to all of the area being annexed.

Will explained that the question before the Commission is fairly narrow - does this annexation comply with the Comprehensive Plan? Will then referred to the Analysis in the staff report which outlines the annexation policy of the city: 1) This annexation includes only those properties that either are or can be served by city sewer and water; 2) with the annexation of the Regional Center, this area would be considered contiguous and is generally urban in character; 3) all city services can be provided to this area; and 4) plans for the provision of services within the area considered for annexation are being coordinated with the CIP. For example, the city is currently constructing a 30" water main in W. Van Dorn that could be extended to provide water service to the remaining area.

Opposition

1. Steve Larson, 4401 S.W. 12th, testified as President and on behalf of the Board of the **Yankee Hill Neighborhood Association**, in opposition. He referred to the petition which has been submitted which contains some 70 signatures in opposition. 25-30 neighborhood residents also stood in the audience in opposition. This neighborhood has the State Penitentiary, the Regional Center, two correctional centers, a school converted into a school for expelled students, a juvenile correction facility, the YMCA traffic and now the Optimist Club traffic. The question is, given the way this neighborhood has been treated in the past, how come there is such an interest on the part of the city now when they've essentially been the city's dumping ground? It becomes clear once you visit the neighborhood what an onerous burden this would put on the residents. This is an older, working class neighborhood with a lot of people who are living on fixed incomes. Many of the lots in the neighborhood are larger because they were created years ago when Lincoln was a distant city. These large frontages will result in a huge expense in assessment fees. There is some confusion, at a minimum, and a great concern, at a maximum, over the whole issue with the fire bond. It is of little comfort to us that the city will take over the services if they are not taking over the bond. In a previous annexation there was a Rural Fire District where the city did agree to absorb the bond and did not. The obligations fell to the balance of the residents. Thus, there is a lot of concern on the part of these residents. Everyone in the area will be assessed and we don't understand why. The Regional Center has requested water, and the residents, in essence, now have to pay money as a result of that. Larson wonders if the Regional Center hadn't requested water whether we would even be here today, and whether the rationale is really valid as far as conformance with the Comprehensive Plan. Larson suggested that this is an "after the fact"

move to help fund the distribution of water to this district. The sewer has been in there for almost 50 years, thus the city has been in noncompliance of their own annexation policy for decades. He believes it is a decision of convenience.

Larson suggested to the Commission that a vote for this annexation is a vote in opposition to a vast majority of the neighborhood, placing a huge burden on people who cannot afford it and won't even benefit from it. Approving this annexation uses the inabilities of a few to serve a few. "Do not make another clever move to squeeze more money out of people who have been dumped on for a number of years. We are real people, with real lives, who have real expenses and this is a real burden you are putting on a neighborhood. This should not be a rubber stamp applied to a deaf government."

2. Gailen Young, 820 W. Stockwell, testified in opposition and would like to add his name to the petition in opposition.

3. Austin McKillip, 847 W. Stockwell, testified in opposition and requested to add his name to the petition.

4. Al Blacketer, 835 W. Burnham, testified in opposition. He is a senior citizen on Social Security. His house is 2' below the line of the sewer and his brother is next door and cannot attach to the sewer. He wants to keep his septic tank, if possible.

5. Randy Shoemaker, 3935 S. Folsom, testified in opposition. If the sewer line was not there, would this be annexed? Or would you just take in the Regional Center and call it good? Steward pointed out that the sewer line is there, and Shoemaker suggested taking it out.

Carlson moved to defer two weeks, with continued public hearing and administrative action scheduled for October 1, 2003, seconded by Bills-Strand and carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

CHANGE OF ZONE NO. 2751A,
AMENDMENT TO THE VAN DORN ACRES
FINAL PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 84TH STREET AND VAN DORN STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Conditional approval, as revised on September 17, 2003.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter from Good Shepherd Presbyterian Church located immediately south, advising the Commission that the church has reached agreement with the developer that will allow the Van Dorn Acres developer to provide detention facilities on church-owned property.

Czaplewski also submitted revised conditions of approval, reflecting amendments that the applicant has requested and to which the staff has agreed. Many of the previous conditions have been deleted based upon a resubmitted drawing which has satisfied a fair number of the conditions contained in the original staff report. Some of the conditions have changed or been added in the last two weeks as a result of meetings with the developer, neighbors and staff. In addition, Czaplewski requested to revise Condition #1.3.9 to "revise the grading in Rockledge Road to the satisfaction of the Public Works Department". There continue to be concerns of grading and cross-section that have not yet been addressed.

The revised conditions of approval submitted today do not change the staff recommendation found on p.121 of the agenda (page 1 of the original staff report submitted for the August 20th Planning Commission meeting). There is one new waiver request to exceed the building height, which is limited at 35'. The applicant is requesting a building height of 38' and Condition #5 approves that waiver. The staff continues to recommend denial of the waiver of the pedestrian easement and the building separation.

Proponents

1. Michael Rierden submitted renderings of the work product of the Slosburg Company throughout the country and the revised site plan for this project. Rierden indicated that the developer has spent a considerable amount of time working with the neighbors in the area and within the PUD, and the abutting property owners to the west. At the public hearing on August 20, 2003, Rierden believes the developer received two messages from the neighbors: 1) general concerns about the traffic, of which this developer has very little control, but the developer will propose to help the traffic situation both now and in the future; and 2) individual concerns of the abutting property owners, which the developer believes have now been addressed.

As far as the traffic is concerned, the developer has agreed to reconstruct the Rockledge Road area according to city design standards for better traffic flow and maneuvering. The neighbors raised the concern about the need for a traffic signal at 84th & Rockledge. Slosburg is proposing and committing to pay for the signal and install it. There will be an amendment to the conditions to elaborate on this.

2. J.D. Burt of Design Associates submitted letters in support from Lincoln Public Schools, Lincoln Benefit Life, and various property owners in the general area. He also submitted information about the issues raised by the abutting property owners. The developer has met with the core group of neighbors and individually with the abutting property owners, and they have come to full agreement.

3. Jerry Kavan of Slosburg Company stated that they have reached agreement with each of the abutting property owners. Slosburg has agreed to reduce the total number of dwelling units from 220 to 210, thereby reducing the density. The most concerned abutting property owners were to the west and the concern was the landscape buffer behind their homes, which began at 17.5 feet. This buffer has now been increased to 29' behind all of the garages. The buffer behind the surface parking stalls is 32' of green space and the buffer in four locations all the way out to the drive is 49'. The 49' buffer is a combined length equating to 32% of the whole west property line.

Another change that has been made is reducing Building 3 by 12 apartment units, which reduces the length of the building to allow the freedom to manipulate the west buffer line. Building 3 is now in excess of 90' from the west property line as opposed to 73'. Building 4 has been moved away from the homes and in excess of 90' from the west property line, instead of 75'. Building 1 was 50' from the west property line and is now 75' from the west property line, and the garage behind Building 1 is 25' from the west property line. Building 1 is proposed to have end elevations that are only two stories and the core of the building will be three stories in height. Slosburg has made a statement to the neighbors that dumpsters on the west property line will be in non-required parking spaces and screened from the west with a screen wall. Slosburg will engage a lighting consultant and utilize lighting mounted under the eaves of the garages to light the drive, and will use pole lighting in-between with shields on the house side. Trees in this buffer zone will be maintained and/or replaced by the developer as necessary. Slosburg then showed an example of the type of tree buffer being proposed, which will be primarily evergreen with a 6' wood fence at the base of the evergreens.

With regard to responding to the concerns raised by the Planning Commission at the initial public hearing as far as the pedestrian circulation, Slosburg has made some improvements and is hopeful to have hit the mark. Slosburg then explained the proposed sidewalk plan. Building 8 has been added where the old detention cell was located, and Slosburg proposes to eliminate the second stair tower.

In addition to other changes, the entrance to the commercial site has been moved further west to better align with the future driveway for the church. This opens up the whole entrance into the commercial space to provide for less congestion and longer drive aisles to the bank drive-up.

In addition, Slosburg reiterated that the intersection of 84th & Rockledge will have a traffic signal which this developer will build and bear the cost. This signal should be in operation before the apartments are open.

Steward inquired whether it is possible for a handicap person to get to the commercial center other than the stairs. Slosburg advised that the sidewalk system goes down to Rockledge in front of Building 8. There is a 15' grade separation between the commercial space and the apartments, so to have adequate length of ramping, that would have to be the route for a handicap person to get down to the Rockledge sidewalk and then go across and into the commercial. A better sidewalk system has been developed up into the commercial from Rockledge so that there are designated crossing locations and adequate room behind Building 10 to get over to another crossing to get to the commercial building.

Carlson inquired as to the elevation change between the parking lot just south of Building 7 and the parking lot just north of Building 9. Slosburg stated that the 15' grade separation is on both the north side and the west side of the commercial, so it would continue to be 15' all the way to 84th Street and then there will be a retaining wall that runs along 84th Street that gradually tapers out by the time it gets to Van Dorn.

Rierden then submitted proposed amendments to the revised conditions of approval, requesting to amend Condition #1.1.6 (now Condition #1.1.2) regarding the traffic light. The developer would request that the language "warranted and recommended" be deleted from that condition. This developer and the neighbors do not want to wait to install the light. Rierden proposed new language language such that, "The traffic signal shall be installed at the same time as the construction of Rockledge Road when said traffic signal shall be activated upon the issuance of the first occupancy permit for the development." The entire cost will be borne by this developer.

Rierden also requested amendment to Condition #6.6 which requires the developer to show easements required by LES. Rierden does not believe the developer should be required to give blanket easements because it could interfere with future development of the site and the marketability of the property from a legal standpoint. The developer would request that language be added to Condition #6.6: "Show easements required by Lincoln Electric System; however, no easements will be required to be shown on the west 29 feet of the development in order to protect the proposed landscaping."

The developer continues to support the neighbors' desire to waive the pedestrian access easements.

Rierden expressed appreciation to Stephen Henrichsen and Greg Czaplewski of the Planning Staff for their help with the negotiations and putting this together.

4. Richard Slosburg also expressed appreciation to the Planning staff, especially Greg Czaplewski and Stephen Henrichsen, who really acted like Solomon to get the developer together with the neighbors. He also expressed appreciation to the leadership of the neighborhood group, Cheryl and Larry Dahl, Kurt Suhr and Tom Tracy. It took a lot of effort on everyone's part and Slosburg Company would like to thank all of those people.

5. Scott Lawson testified in support on behalf of **Lincoln Benefit Life**, located at 2940 So. 84th Street, which is a wholly owned subsidiary of All State Insurance, occupying 28 acres directly on the east side of the Rockledge entrance. Lincoln Benefit was approached by the developer and they have maintained excellent communication. LBL is in support of the project from the standpoint that LBL employs about 900 people with nothing around it in terms of retail and commercial space. The employees are given 45 minutes for lunch and it is difficult to run errands or go to lunch. This development will offer some retail and commercial opportunities for LBL employees.

Opposition

1. Kurt Suhr, 8030 Thornview Road, stated that he is not sure he is in support or opposition. He pointed out that they have had constructive meetings with the developer and the city. He told them that he would support the project if the neighbors were satisfied and if some of the parking issues could be resolved. Suhr pointed out that to go west on Van Dorn, people will have to go to 84th and make a u-turn. The neighbors are pleased with the traffic signal, but it needs to be installed as soon as possible. Suhr submitted the plans that were discussed with the developer. The Crown Pointe neighbors were interested in seeing the commercial on the corner of 84th & Van Dorn, which would give people from the commercial a lot better potential for egress. They could go out on Van Dorn to go north, taking the pressure off 84th Street. The neighbors are now happy to obtain a little more green screen. They are a little disappointed with the idea of "live, work, shop"—he does not know that this plan really satisfies that concept. Suhr does not believe that the handicap accessibility issue has been resolved. He had hoped they could have done better from a basic design concept rather than using retaining walls and relying on structures and green space to screen.

Suhr also indicated that these neighbors had talked about a neighborhood park at one time during the negotiations and staff indicated that they might be able to get a neighborhood park in the Lux area. That discussion has not occurred.

Suhr would like to explore the possibility of closing Rockledge Road. The Crown Pointe neighbors still have a concern that traffic leaving this development will come through their neighborhood. A playground could be put in the city right-of-way, and there is a big open detention cell on the church property. There could be a good mesh there for a neighborhood park/playground area. It seems like a nice blend between the neighborhood, the church, the city and this development.

2. Cheryl Dahl, 2810 Crown Pointe Circle, commended the staff for their efforts in bringing this difficult issue together. There are so many issues concerning the traffic, and the Crown Pointe neighbors support the traffic signal at 84th & Rockledge.

Staff questions

Marvin asked for a staff response to the proposed amendment regarding the traffic signal. Dennis Bartels of Public Works stated that Public Works has agreed that when the traffic signal is warranted, it will be installed. If not warranted at the time of the first building permit, Bartels suggested that the Commission could change the language such that it be "as recommended by the City Traffic Engineer". Bartels does not know when it will be warranted. The Traffic Engineer is legally required to evaluate before installing a signal, so the discretion should rest with the City Traffic Engineer. It might depend on which of our 84th Street projects are going on at that time. The city would like to maintain the control of the timing when it is installed. Bills-Strands assumed that it is not illegal to say we want it now when the apartments and the commercial are in, such as "at the request of the neighbors". Bartels advised that technically, the national regulations require that the City Traffic Engineer evaluate the warrants before installing the traffic signal. There might be some in town that do not meet the warrants, but they are to be evaluated before installation.

Carlson referred to Condition #2, "including the on- and off-sale of alcohol located in those portions of Buildings 9 and 10 that are located 100' or more from a residential building." He noted that this is different than the way the Commission has normally made this recommendation. Are these buildings separated into bays or are we going to be tape measuring? Czaplewski advised that "this" building will be portioned into as many as 14 bays. There will be bays such that the Police Department would be able to determine whether certain bays are within that requirement and whether certain bays are not. Building 10 will be outside the 100'. This language was put in to catch any of the residential uses that might have moved closer to Building 10. At this point, he does not believe that Building 10 would ever be within 100' of a residential building.

Carlson asked for legal interpretation as far as past precedent for bays versus buildings. Rick Peo of the City Law Department suggested that there is a need to recognize here that, because it is a PUD with residential zoning, the typical rules as to the issue of the measurement have somewhat changed. Because alcohol sales are actually allowed in the PUD to be transferred into the residential district, there is a need to modify the criteria somewhat. You are basically establishing a new guideline because we have never had a PUD bringing in potential alcohol sales before. We tried to maintain somewhat the same philosophy. Steward suggested that what we are talking about is distance from actual location as contrasted to building when we assumed originally that the building was the location. Peo concurred. Carlson commented further that this is specifically different from the special permit type of alcohol sales that we have seen in the past.

Marvin inquired whether the measurement would be from the clubhouse. Peo has not been involved in the discussion so he did not know whether the clubhouse was included in the measurements.

Taylor noted that the developer is still requesting that the pedestrian easement be eliminated. Is there any sufficient justification to which the staff would agree for granting that waiver? Czaplewski stated that the staff position is still that that waiver be denied and the pedestrian easement be maintained. There is an existing easement on an adjacent single family lot that has already been paved that connects to this easement. This easement has been dedicated on a previous final plat.

Steward asked whether staff agrees with the proposed amendment to Condition #6.6 regarding the LES easements. Czaplewski advised that the staff would be opposed to this change. This has been discussed with LES, and they are willing to discuss some alternative easement corridors. Czaplewski suggested that the Commission could add language that would minimize disruption to any landscaping, etc. He understands the concern for maintaining landscaping, but a wholesale elimination of easements in that corridor is not acceptable to the city.

Steward wondered whether the Commission could require that the traffic signal be “installed as soon as feasible and with the recommendation of the City Traffic Engineer”. Bartels indicated that to be more acceptable than the applicant’s proposed amendment.

Response by the Applicant

Rierden responded to the alcohol sales issue, stating that the developer knows that they have to deal with the 100' and they are prepared to do so and will not be seeking any waivers or variances.

With regard to the traffic signal, Rierden reiterated that at the public hearing on August 20, 2003, every neighbor that testified was in favor of some help and, specifically, the traffic signal. Therefore, Rierden urged the Commission to recommend approval of the language he submitted. He does not see the need to wait.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 17, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, as revised on September 17, 2003, with amendment to Condition #1.1.6 (now 1.1.2) that, The traffic signal shall be installed as soon as feasible and as recommended by the City Traffic Engineer, to also address and take into consideration concerns of the neighborhood; with amendment to Condition #1.3.9 to, Revise the grading in Rockledge Road to the

satisfaction of the Public Works & Utilities Department; and with amendment to Condition #6.6 to "Show easements required by Lincoln Electric System; however, easements will be avoided to not disrupt screening between the multi-family and single family dwellings, (so at least LES knows to try to avoid disrupting the screening), seconded by Duvall.

Bills-Strand believes the developer has done a good job of working with the neighbors.

Taylor confirmed that the revised staff recommendation still recommends denial of the waiver of pedestrian easement and the building separation, as set forth on the first page of the original staff report.

Motion for conditional approval, as revised on September 17, 2003, with amendments, carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

*** break ***

CHANGE OF ZONE NO. 3413
FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT N. 24TH STREET AND SUPERIOR STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Denial.

Ex Parte Communications: None.

The Clerk announced that the applicant has submitted a written request for deferral until October 29, 2003.

There was no public testimony.

Bills-Strand moved to defer, with continued public hearing and administrative action scheduled for October 29, 2003, seconded by Larson and carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

SPECIAL PERMIT NO. 1423G,
AN AMENDMENT TO THE HIMARK ESTATES
COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S. 84TH STREET AND OLD CHENEY ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter in opposition.

Proponents

1. Mark Hunzeker appeared on behalf of **HiMark Development and D&M Development**, the developers of HiMark Estates. This is a replat revision of the existing CUP to add 20 single family lots to the CUP. The layout of this subdivision is along Old Cheney Road on the south and 90th Street on the west. These homes are to be built by Manzitto Brothers Construction as single family homes, and specifically designed to fit comfortably on these smaller lots. "Smaller does not mean low quality, low amenity nor cheap." These lots will be in the same price range as the lots in HiMark (over \$50,000). The homes are very attractive single family homes, all being built as some variation or other of the photographs which Hunzeker displayed. The idea is to create a small neighborhood within a neighborhood that has a very old-time feel to it. The covenants will be very comparable to those which exist in HiMark Estates, i.e. single family ranch style will be minimum of 1650 sq. ft., as compared with minimum of 2000 sq. ft. in HiMark Estates; the 1.5 story will be minimum of 2,050 sq. ft., and the two-story will be 2,150 sq. ft. They are also very comparable to the Vintage Heights covenants across the street.

Hunzeker further pointed out that these homes will be screened from Old Cheney Road with berming between the private roadway and the right-of-way line, with screening along the top of the berm. The area to the north of the private drive drops further to the north and these homes will not in any way detract from the view or the values of property on the south side of Old Cheney Road.

Hunzeker believes this proposal is in accordance with the Comprehensive Plan in that it does add to the density of a project which is basically at one-half or less of the density that would otherwise be permissible. It is an asset both to HiMark Estates and to the entire neighborhood.

Hunzeker agreed with the previous developer (Special Permit No. 1423H) on the relocation of the access point of Sandhills Court to 90th Street, and it will be revised to meet up with the street across from this development. This development will probably lose a lot in that process, but this developer has agreed to the separation and with the developer to the west as to the location of that roadway.

Hunzeker referred to the requirement to dedicate an additional 10'. This developer would like very much to grant an easement in lieu of right-of-way for that additional 10'. When the public way corridor design was proposed, there was much emphasis placed on the fact that we were not necessarily going to be taking 120' of right-of-way in every location, and that we would be able to grant easements in appropriate circumstances. The reason for the additional 10' on both sides was not because of the roadway and the sidewalks—it was to have the additional 10' on each side to have adequate separation from the curb to the sidewalk and landscaping between the sidewalk and the property lines. A five-lane roadway in that cross-section will not exceed 68'. You've got 16' on each side with a 100' right-of-way in order to set sidewalks back 8' from the curb, and a traditional 4' sidewalk before you get to the right-of-way line. With the 10' easement, the sidewalk could be placed further back from the street and have additional landscaping. Hunzeker requested that Condition #1.11 be deleted.

Opposition

1. Wayne Janssen, 9200 Merryvale, which is one of the houses across Old Cheney Road from Sandhills Court, testified regarding Sandhills Court. He has provided written comments which were prepared and submitted for the prior meeting. His primary concerns are congestion, appearance and safety. He is concerned with Lots 1 through 8. The homes were described initially as patio homes. He has heard from various sources that patio homes don't have basements and share driveways. In this particular case, there will be eight of those patio homes on this little narrow private drive with a small turnaround at the end. He does not want to look at this across the street. He will already be seeing five lanes of Old Cheney Road, and he anticipated that. Beyond that, he will see a small buffer and then another private road, a mass of driveways and then fronts of houses. The general appearance is still going to be the equivalent of living across the street from a shopping center. This is not what was there when he purchased his lot. It was to be an outlot. They are trying to fit something in there that he does not believe may be reasonable. He believes there will be excess parking that will need to be done on Sandhills Court. This is a private drive and there could be parking on both sides. If we have an emergency and need to get an emergency vehicle in there, it could be impossible. The road is too narrow and they can't expand it because of the waterway and pond.

With regard to safety, Janssen believes that Sandhills needs to be eliminated so that Snyder could come straight out. Now, Snyder is proposed to be closer to Old Cheney and Sandhills is to go up to meet it. His concerns about safety have not been eliminated. Sandhills will bring

in 8-24 cars at a point within only 120' from the centerline of Old Cheney Road. For someone coming off of Old Cheney Road, cars are going by at exorbitant speeds coming out of the undeveloped area. Someone going off of Old Cheney Road and onto 90th Street is likely to have to make that corner quickly. If Sandhills Court is immediately on the edge, he believes there is great chance for impact. The provisions for 120' are not necessarily anticipating this much traffic and congestion, and even 150' is not appropriate with that many cars coming into that intersection.

2. Tim O'Neill testified on behalf of the **Vintage Heights Homeowners Association** in opposition. Their concern is not the quality of the housing project. The problem and the reason they are in opposition is Sandhills Court. It does not fit the subdivision ordinance that requires the layout and design to conform with the surrounding neighborhood. We have a major arterial with at least 5 lanes, separated by a very small berm, then another two lanes, and then another set of street lights. That is not consistent with the character of the neighborhood. The Commission has the power to make the developer redesign to conform to the area around it. This is a frontage road and no one has frontage roads out there.

O'Neill agrees that 120' is excessive, but if it has to be 120', 10 needs to come from each side. There is a curve to the south right in this area. When this road gets straightened, do we have enough room on the north? He wants to make certain that the right-of-way is taken fairly and taken on both sides, and does not adversely impact Vintage Heights. O'Neill requested that this application be denied because of Sandhills Court.

Marvin noted that Snyder and Sandhills are offset by what looks like about 50'. Does that pose a traffic risk when they're coming out to 90th Street? Dennis Bartels of Public Works stated that the question was raised during the previous hearing in Special Permit 1423H, also. Pursuant to design standards, there is supposed to be a 120' offset or align the two streets. Bartels anticipates that the two will be straight across from each other. He has been told that the developer has agreed to the staff objection and that the two will align with each other.

Response by the Applicant

Hunzeker reaffirmed that the developer has agreed with the developer of the Snyder parcel to change the alignment of "this" roadway from "this" with the offset to "this" (Hunzeker was pointing to a map), which meets the Public Works objections and meets the design standards. There is probably a 10 degree, or less, deflection on that intersection, but that is within the design standards.

Hunzeker believes the safety question is a little bit odd. If you look at the aerial photo on page 193 of the agenda, you can see the west edge of the area north of Old Cheney Road, which is the location of this amendment. There is no intersection on the south side of Old Cheney Road. We are T-ing into Old Cheney from the north, so he is not sure about the

issue of safety viz-a-viz people who live in Vintage Heights. Their access to Old Cheney Road is going to be at about 92nd or 93rd Street, or back at 88th Street. There certainly won't be any conflict from the south.

The other objection seems to be that we are providing front door appearances to Old Cheney Road as opposed to back door. If we were to move that road so that we had lots backing up to Old Cheney, creating double frontage lots (which are not favored in our planning scheme of things), it not only would have presented a much less ornate and much less aesthetically pleasing view to the street, it would have made the grades of the lots on the north side of Old Cheney Road kind of strange because the grades drop off toward the pond. There are not going to be any houses without basements. These are going to be walk-outs. To the extent that we have any ranch homes at all, they will be walk-out ranches.

The lighting will be standard residential street lighting, which everyone has in front of their house on all sides of this. Between this property and anything on the south side of Old Cheney Road will eventually be the lighting for an arterial street. The additional lighting, if any, that is provided for Sandhills Court, a private roadway, is going to be minimal by comparison. We have talked with LES about providing shielding from Old Cheney Road and property on the south, which is easy to do and meets design standards and we will gladly do that.

The bottom line objection is that there is a desire on the part of a property owner on the south side not to want to see any houses on the north side of Old Cheney Road across from Vintage Heights, which Hunzeker does not believe to be a reasonable objection to this project.

Dan Muhleisen testified that it is in this developer's best interest to screen Sandhills Court from Old Cheney Road. We are putting people on that side of the road who really don't want to see a four-lane arterial roadway, so we will do everything possible to screen Sandhills Court as well as the units that we build on the north side of Old Cheney Road so that we do not see that four-lane arterial roadway in the future. Our screening should be just what they want on the opposite side of Old Cheney Road so that they don't see our roadway, our driveways and our units.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 17, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, seconded by Larson.

Bills-Strand believes that this looks like a nice subdivision. She has seen this in other communities, and looking at the front of houses is more attractive than looking at backs of houses.

Steward observed that the development to the south is primarily on streets that run north and south with housing that faces each other. Even if that were not the case, Old Cheney is scheduled to be a major arterial. It is very typical and appropriate in the community that there be some demarcation across major arterials of both appearances and uses. It is not unusual in terms of a Comprehensive Plan. He believes that the higher density is the appropriate developmental step in this proposed development and he will support the motion.

Motion for conditional approval carried 7-1: Larson, Bills-Strand, Carlson, Duvall, Marvin, Taylor and Steward voting 'yes'; Krieser voting 'no'.

PRELIMINARY PLAT NO. 02005,
CATHERLAND SUBDIVISION,
ON PROPERTY GENERALLY LOCATED
AT N. 70TH STREET AND FLETCHER AVENUE.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

1. **Greg Wood**, 7130 So. 29th, engineer for the applicant and the developer, stated that the developer agrees with the staff recommendation and conditions of approval.

There was no other public testimony.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION: September 17, 2003

Taylor moved to approve the staff recommendation of conditional approval, seconded by Bills-Strand and carried 8-0: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

ITEMS NOT ON THE AGENDA September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Marvin Krout, Director of Planning, addressed the Commission to advise that there were three studies that the Planning Department was charged to undertake within a year after the adoption of the Comprehensive Plan. Those studies have now been completed: Build-Through, Cost of Rural Services and study of Performance Based Zoning in the Rural Areas. The consultants are planning to come to Lincoln on the September 22-23 and September 29-30 to brief the City Council and the County Board, followed by a Common meeting on October 7th to talk about the performance standards and policy study. Krout invited the Commissioners to sit in on any or all of those meetings. Because these studies have not had a lot of public input, other than committee work, the Planning Department will be suggesting to the elected officials that the appropriate next step would be to send the studies to the Planning Commission for public hearing. We are suggesting a briefing in mid-October, and then a public hearing to take testimony and hear comments from the general public in late October. Copies of the studies will be sent to the elected officials and to the Planning Commission at the end of this week and they will be posted on the webpage next week.

Steward congratulated the staff on getting these studies pulled together. They were an important part of the Comprehensive Plan recommendation.

There being no further business, the meeting was adjourned at 3:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 1, 2003.